

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

KENNOX "LEE" PLANTE,

Plaintiff,

2005-CV-0126

v.

ORGILL INCORPORATED,

Defendant/Third-Party Plaintiff

v.

YUN FU ENTERPRISES CO.

Third-Party Defendant.

TO: Lee J. Rohn, Esq.
Simone R.D. Francis, Esq.

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL

THIS MATTER came before the Court upon Plaintiff's Motion to Compel Defendant to Pay Airfare and Per Diem For Defendant's Independent Medical Examination (Docket No. 110). Defendant filed an opposition to said motion, and Plaintiff filed a reply thereto.

Having reviewed the submissions of the parties and upon due consideration thereof, the Court finds that Defendant offered to pay Plaintiff's airfare and per diem and may not withdraw such offer. The Court finds Defendant's stated reason for rescinding its agreement is improper. In the event Defendant determined that the filing of its motion to

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conduct mental examination was onerous, it could have applied to the Court for an award of attorney's costs and fees associated therewith.

Accordingly, it is hereby **ORDERED**:

1. Plaintiff's Motion to Compel Defendant to Pay Airfare and Per Diem For Defendant's Independent Medical Examination (Docket No. 110) is **GRANTED**.
2. Defendant shall pay for Plaintiff's travel expenses, including per diem, associated with Plaintiff's attendance at his independent medical examination with Dr. Ann Barnard currently scheduled for October 3, 2008, in St. Thomas, U.S. Virgin Islands.

ENTER:

Dated: October 1, 2008

/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE